



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

TDD (804) 698-4021

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

MINUTES STATE WATER CONTROL BOARD

March 18, 2010
House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

Board Members Present:

W. Shelton Miles, III, Chair
Lou Ann Jessee Wallace
Roberta A. Kellam

Komal K. Jain, Vice-Chair
John B. Thompson

Board Members Absent:

William B. Bott

Robert H. Wayland, III

Staff Present:

David K. Paylor, Director
Department of Environmental Quality

Cindy M. Berndt
Department of Environmental Quality

Attorney General's Office:

John Butcher, Special Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened on March 18, 2010, at 9:40 a.m., recessed at 10:35 a.m., reconvened at 10:55 a.m. and adjourned at 11:32 a.m.

Approved Minute No 1
June 21-22, 2010
mtg.



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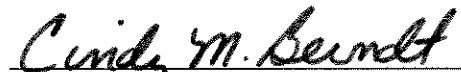
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 1 – Minutes

The Board approved the Minutes from the December 14, 2009, meeting.


Cindy M. Berndt



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Blue Ridge Regional Office

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David K. Paylor
Director

Steven A. Dietrich
Regional Director

Douglas W. Domenech
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 2 - Issuance of Virginia Water Protection (VWP) Permit Number 09-0412, Forest Lakes Property Owners Association, Inc.

The staff made a presentation on this individual permit, discussing the nature of the project, summarizing the results of the public hearing comments, and discussing proposed changes in the draft VWP Permit. The proposed changes in the draft VWP permit are as follows:

At the request of the applicant:

- Cover Page -- Total maintenance dredge area was changed from "1.93" to "1.94" acres
- Part I.A -- The maintenance dredge area in Spring Lake, East Inlet, was changed from "0.17" to "0.18" acres.

At the request of DEQ staff:

- Part I.A -- "... Swan Lake and Spring Lake (Lakes) may be dredged, over excavated areas may be constructed in Swan Lake, forebays and over-excavated sediment catchments may be constructed in Spring Lake, and maintenance dredging may occur in forebays and sediment catchments as described the JPA and revisions. ..."

At the request of the Office of the Attorney General:

- Part I.D.2 -- "... During refilling of the Lakes, an adequate flowby shall maintain a free flowing stream downstream of each lake to maintain in-stream beneficial uses at all times. be maintained downstream to maintain sufficient levels of stream flows to maintain all in-stream beneficial uses at all times."
- Part I.D.4 -- "The plan shall be amended at least 30 calendar days prior to initiating maintenance dredging activity and shall be submitted for DEQ review and approval consistent with the provisions of this condition to show the manner in which dredging is to occur and the location and design of the dredged material disposal areas associated with the maintenance dredging activity, including material transport."
- Part I.D.8 -- "Dredging by hydraulic methods is not authorized by this permit and prior notification to DEQ and a modification of this permit will be required prior to initiating hydraulic dredging. The permittee shall notify DEQ prior to initiating any hydraulic dredging activity."

MINUTE NO. 2 - Issuance of Virginia Water Protection (VWP) Permit Number 09-0412, Forest Lakes Property Owners Association, Inc. located in Bedford County, Virginia
Page 2 of 2

- Part I.D.10 -- All dredged material shall be transported via watertight trucks if transport on public roads is required for disposal at an approved upland site. ~~provided that all required permit for the upland sites are valid.~~ If watertight trucks are not available, dredged material shall be dewatered (e.g., drained of all free water) prior to transport. ~~to the final disposal site on public roads.~~
- Part I.D.15 -- Dredged material dewatering areas shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material. The dewatering area shall be properly stabilized in accordance with the approved Dredged Material Management Plan prior to placing the dredged material within the dewatering area. ...
- Part I.F.1 -- "... Photo stations shall be sufficient in number to represent permitted activities and show the activity from at least two different perspectives (e.g. ~~i.e.~~ from the south and the east, west and north, etc.) ..."
- Part II.A -- "... Nothing in this VWP permit chapter shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. ..."

At the request of the Board:

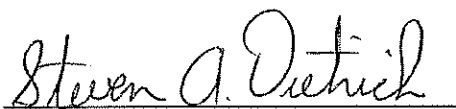
- Part I.D.2 -- During refilling of the Lakes, an adequate flowby shall maintain a free flowing stream downstream of each lake to maintain all in-stream beneficial uses at all times

After the staff presentation, Board asked for any other speakers to come forward. There were no other speakers.

Board Decision

The Board voted unanimously to:

1. Concur that the following findings were appropriate:
 - a. The proposed permit addresses avoidance and minimization of surface water impacts to the maximum extent practicable.
 - b. The effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to significant impairment of state waters or fish and wildlife resources.
 - c. The proposed permit conditions address no net loss of wetland acreage and function through compensatory mitigation.
 - d. This permit is proposed to prevent unpermitted impacts.
 - e. The proposed activity is consistent with the provisions of the Clean Water Act and State Water Control Law and will protect instream beneficial uses.
2. Approve the proposed VWP individual permit and conditions with the modifications presented today.
3. Authorize the Director to issue the approved VWP Individual Permit Number 09-0412.



Steven A. Dietrich, P.E.
Regional Director, Blue Ridge Regional Office



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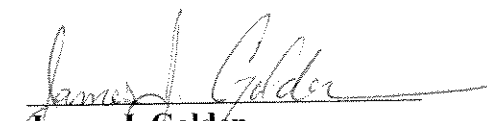
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 3 - Final Amendments to the Virginia Underground Storage Tank Technical Standards and Corrective Action Requirements Regulation, 9 VAC 25- 580

The Board had been provided a draft of the proposed amendments to the Underground Storage Tank Technical Standards and Corrective Action Requirements regulation prior to the board meeting. Betty Lamp summarized for the board members the changes made to the amended regulation since the proposed stage.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the proposed amended regulation (9 VAC 25-580 *et seq.*), as presented by the staff.


James J. Golden
Deputy Director for Program Development



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 4 - General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Coin Operated Laundries, 9 VAC 25-810

The staff recommended that the board authorize a notice of public comment period and public hearings on the draft general VPDES permit for the coin operated laundries that were presented in the board meeting package. The staff also recommended that the board authorize the staff to serve as hearing officer at the public hearings.

Board Decision

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize a notice of public comment period and to hold public hearings for the draft General VPDES Permit Regulation for coin operated laundries. The Board also voted unanimously to authorize the staff to serve as hearing officer at the public hearings.

A handwritten signature in cursive script, reading "Ellen Gilinsky".

Ellen Gilinsky, Ph.D.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON March 18, 2010

MINUTE NO. 5 – Actions on the proposed amendments to the Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management.

Betsy Bowles with the Office of Land Application Programs presented the proposed amendments to the Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management. The Board was asked to authorize for public comment and hearing the proposed amendments to the Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management.

No questions followed the staff presentation.

Board Action:

Based upon the information provided by staff, the Board voted unanimously to accept the staff recommendations:

1. Approve for public comment and hearing the proposed amendments to the Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management as contained in the Board books with the additional amendments presented during the meeting which were made in response to the review by the Attorney General's Office.

A handwritten signature in cursive script, reading "Ellen Gilinsky".

Ellen Gilinsky, PhD.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 6 – Large Scale Agricultural Operations on the Eastern Shore

Melanie D. Davenport, Director of the Division of Enforcement reported that counsel for the petitioner had requested in correspondence dated March 8, 2010 that the Board delay action until its next meeting. The request was based on the expressed willingness of the Secretary of Agriculture and Forestry to enter discussions anew with interested parties to determine if resolution can be reached utilizing the existing regulatory tools of various state agencies.

As the petitioner requested an opportunity to work with the Secretary of Agriculture and Forestry, staff recommended that the Board direct agency staff not to proceed to the next step in the regulatory process at this time. The Board approved the staff recommendation unanimously.

A handwritten signature in cursive script that reads "Melanie D. Davenport".

Melanie D. Davenport
Director
Division of Enforcement



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 7 – Urbanna Creek Exceptional State Waters designation

Alan Pollock, Manager of the Office of Water Quality Programs, reviewed the activities that had occurred since the Board received the petition at their July 23, 2009 meeting requesting designation of Urbanna Creek as an Exceptional State Water. Mr. Pollock reviewed the agency guidance regarding the eligibility criteria for waterbodies to qualify as Exceptional State Waters. He then provided a summary of the required staff site visit along with some images of Urbanna Creek.

During the site visit staff verified that Urbanna Creek is an attractive waterbody. As it flows through Middlesex County and along the Town of Urbanna, the creek presents a pleasant environment. However, the question before the Board is whether the creek meets the criteria to be designated exceptional. The staff conclusion is the creek does not meet the primary eligibility criteria of possessing an exceptional environmental setting, based on these reasons:

- Natural features of the basin do not significantly contribute to the overall appearance of Urbanna Creek.
- It is comparable in appearance to many of the small coastal streams of the lower Rappahannock River tidal estuary.
- The creek is not a national wild and scenic river nor is it an integral component of any federal or state park, wildlife refuge, or wildlife management area.
- The creek and its environs are not remote or undeveloped but rather characterized as a suburban/urban, developing area.
- Access to the entirety of the tidal portion of the creek is readily available to motorized boats and jet skis.

Mr. Pollock provided visual examples of existing Exceptional State Waters and explained that candidate waters must exhibit outstanding settings without undue anthropogenic impacts and/or are located in remote areas and/or are part of a public protected area.

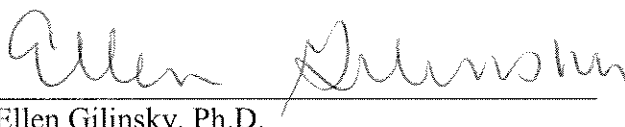
He also informed the Board that Urbanna Creek is listed as impaired for the shellfish consumption use and is also listed as impaired for the aquatic life use due to low dissolved oxygen and not meeting Chesapeake Bay shallow water submerged aquatic vegetation (SAV) uses.

Mr. Pollock summarized the comment received from potentially impacted localities and riparian landowners. Eight citizen comments supported the nomination, and two opposed. Neither Middlesex County nor the Town of Urbanna submitted comment.

Chairman Miles asked whether the shellfish impairment is due to an administrative closure by the Virginia Department of Health or whether the impairment is due to actual water quality data. Mr. Pollock affirmed the impairment is a result of water quality data exceeding the bacteria criteria and that a Total Maximum Daily Load for bacteria was completed for the creek in 2005.

Board Decision

Based on the briefing materials and the staff presentation, the Board, by unanimous vote, decided not to initiate a rulemaking to designate Urbanna Creek as an Exceptional State Water.


Ellen Gilinsky, Ph.D.
Director, Division of Water Quality Programs



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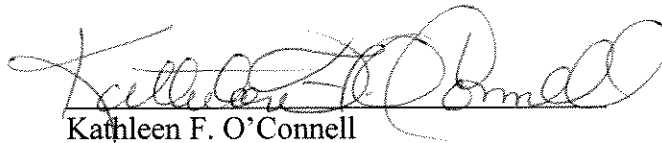
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 8 – VPDES Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Craig-New Castle Public Service Authority
2. City of Bedford
3. Dare to Care Charities, Inc.
4. Bath County Service Authority, Hot Springs Regional STP

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.



Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 9– VPA Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. L. Wayne Hunt
2. Wayne Freeze, Jr.

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.


Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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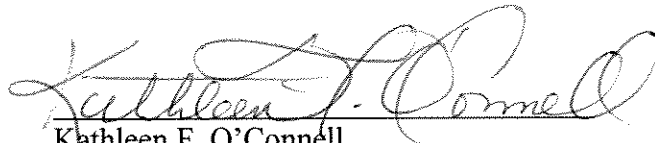
EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 10 - VWP Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Fountainhead Land Co., LLC, Ballyhack Golf Club
2. Summit Development Co., LLC
3. Glenwood South, LLC
4. Augusta County Service Authority, Augusta Regional Landfill
5. W. Boutros & Co., Ana Marie Estates

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.



Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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EXCERPT FROM THE PROCEEDINGS OF THE BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE 11- Development of Virginia's FY 2010 Green Reserve Project Funding List

Mr. Walter Gills of the Department's Construction Assistance Program, made a presentation to the Board based on a staff memorandum dated March 11, 2010 pertaining to the development of Virginia's Green Reserve Project Priority List for FY 2010.

Mr. Gills began by reminding the Board of their previous action approving 17 projects totaling \$202 million for FY 2010 and that, because of the new green reserve project requirement passed by Congress after the original 2010 solicitation/review period, DEQ staff had conducted an additional solicitation solely for green reserve projects. He noted that at least \$8.4 million had to go to green reserve type projects. He then referenced the attachments included with the staff's memorandum providing the Board with a description of the projects being considered. The 2010 green reserve application pool included 32 applications totaling \$25.7 million.

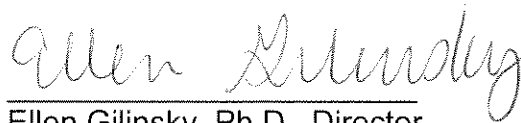
Mr. Gills summarized the staff's activities in regards to the review of the applications, including an evaluation by the green project review team of the projects' eligibility, water quality impact, amount of water/energy produced/conserved, and the overall project quality. He noted that six of the loan requests did not meet the eligibility criteria established by EPA. Mr. Gills pointed out that the stormwater and decentralized treatment projects provided direct water quality improvements and that projects involving energy production from unused sources were considered a higher priority than those that conserved energy through equipment retrofits. He stated that two energy production applicants with large funding requests were being recommended for only partial funding in order to assist more projects and that the staff was recommending funding 17 projects totaling \$10.1 million.

Following discussions, the Board voted unanimously to:

1. Target the following applicants for loan assistance from available and anticipated funds and authorize the staff to present the Board's proposed FY 2010 green reserve project priority list for public comment.

1	Albemarle County	\$800,000
2	Town of Appalachia	\$664,984
3	Town of Big Stone Gap	\$186,381
4	Town of Herndon	\$200,000
5	HRSD / Atlantic	\$3,000,000
6	Town of Leesburg	\$200,417
7	Loudoun Co. Sanitation Auth.	\$70,000
8	Loudoun Co. Sanitation Auth.	\$100,000
9	Loudoun Co. Sanitation Auth.	\$90,000
10	Town of Marion	\$500,000
11	Middle Peninsula PDC	\$250,000
12	City of Petersburg	\$600,000
13	City of Richmond	\$450,000
14	Town of Rocky Mount	\$223,452
15	Upper Occoquan Service Auth.	\$2,000,000
16	Town of Warrenton	\$201,250
17	Town of Wytheville	\$540,000

Total Proposed FY 2010 Green Project Reserve Funding	\$10,076,484
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Ellen Gilinsky, Ph.D., Director
Division of Water Quality Programs



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 12 – Public Forum

Ms. Carol C. Wampler appeared before the Board to thank them for their service to the Commonwealth.


Cindy M. Berndt



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MINUTE NO. 13– Other Program Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Howard Hughes Medical Institute
2. Shore Landvest, Inc.

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in cursive script, reading "Kathleen F. O'Connell".

Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON March 18, 2010

Minute 14 – Water Division Director Report

Ellen Gilinsky, Water Division Director, gave the Board an update on the status of the EPA approval of the Triennial Review of Water Quality standards that the SWCB had approved for submission. On December 29, 2009 EPA approved all but three of our suggested revisions to the standards. Those three had to do with special standards for pH for a fertilized DGIF recreational lake, Mn to protect aesthetic qualities of drinking water at Clarksville PWS intake on Kerr Reservoir, and summer temperatures of an artificially stocked trout stream. These denials were discussed with affected parties and plans are in place to keep the original standard in those instances and meet the existing standard or conduct a TMDL.

The Board was also informed that changes have been made to the Leesville/Smith Mountain Lake Flow Study Plan in response to the FERC Order Issuing New License for the Smith Mountain Project, effective April 1, 2010. It was reported, and the Board agreed that these changes are more of a clarification of the existing plan and are consistent with the Virginia Water Protection Individual Permit No. 08-0572. Therefore no Board action is required.

A handwritten signature in cursive script, reading "Ellen Gilinsky".

Ellen Gilinsky, Ph.D.
Director, Water Division



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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 15 – Report on Facilities in Significant Noncompliance

Kathleen O'Connell, Water Enforcement Program Manager, reported to the Board that there was one regulated party to be reported as being in significant noncompliance for the quarter ending September 30, 2009. Ms. O'Connell reported that the regulated party was The Town of Farmville which had violated permit effluent limits for copper in March, May, June and July of 2009. Ms. O'Connell additionally reported that the violations had been addressed through the issuance of a Consent Special Order approved by the Board at its December 2009 quarterly meeting.

The Board accepted the report.

A handwritten signature in cursive script, reading "Kathleen F. O'Connell".

Kathleen F. O'Connell
Water Enforcement Program Manager
Division of Enforcement



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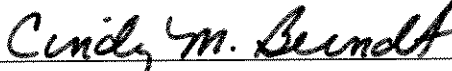
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EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON MARCH 18, 2010

MINUTE NO. 16 – Meetings

The Board confirmed June 21-22, 2010, as the dates of their next meeting.


Cindy M. Berndt